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Docket No.: 240696US6

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

ATTORNEYS AT LAW

RE: Application Serial No.: 10/624,505

Applicants: Patrick JEANDEL

Filing Date: July 23, 2003

For: A ZIP FASTENER DEVICE FOR THE JUNCTION OF
TWO LEATHER STRIPS, METHOD OF MAKING
SUCH A DEVICE AND CORRESPONDING
ARTICLE

Group Art Unit: 3677

Examiner: BRITTAIN, JAMES R.

SIR:

Attached hereto for filing are the following papers:

Response to Restriction Requirement

Our check in the amount of \$0.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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DOCKET NO: 240696US6



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
PATRICK JEANDEL : EXAMINER: BRITTAIN, JAMES R.
SERIAL NO: 10/624,505 :
FILED: JULY 23, 2003 : GROUP ART UNIT: 3677
FOR: A ZIP FASTENER DEVICE FOR :
THE JUNCTION OF TWO LEATHER
STRIPS, METHOD OF MAKING SUCH A
DEVICE AND CORRESPONDING
ARTICLE

RESPONSE TO RESTRICTION REQUIREMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Restriction Requirement dated November 22, 2004, Applicants provisionally elect with traverse Group I, Claims 1-4, 11 and 12, directed to a zip fastener device. Applicants make this election based on the understanding that Applicants are not prejudiced against filing one or more divisional applications that cover the non-elected claims.

Applicants traverse the outstanding Restriction Requirement as the outstanding Restriction Requirement has not established that an undue burden would be required if the Restriction Requirement was not issued and if all the claims were examined together. Applicants further respectfully traverse this Restriction Requirement for the reason that the inventions of Groups I and II have not been shown to be distinct in the manner required by M.P.E.P. § 806.05(f).

More particularly, MPEP § 803 states:

“If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.”

Although the outstanding Official Action identifies different search classifications, it is believed that the claims of the present application would have to be searched in a handful of sub-classes. Furthermore, since electronic searching is commonly performed, a search may be made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Restriction Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain separate applications.

As to Applicants' position that the inventions of Groups I and II have not been shown to be distinct in the manner required, the above-noted portion of the manual indicates, the Patent Office must demonstrate either (1) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make other and different products, or (2) that the product as claimed can be made by another and materially different process.

Page 2 of the Restriction Requirement indicates that "[i]n the instant case, the product as claimed can be made by another and materially different process such as integrally molding the strips around the rod in a folded configuration with the teeth formed in situ in the molding process, wherein the strips are molded from a synthetic resin to create the appearance of simulated leather." However, the specific steps of the process simply stated to be "materially different" are not set forth. At best, there is an indication that an "integrally molding" step is somehow to be used with other unspecified steps to make the product as claimed. Because the required showing as to a process (not just step) to form the device of

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Group I has not been set forth, Applicants cannot determine what the process being proposed is, much less if it is simply different from the process of Group II or if it is "materially different" as is required.

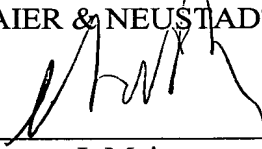
Since the Restriction Requirement fails to set forth a process that is even capable of making the product of Group I, it cannot be said to have met the requirement of MPEP § 806.05(f) as to showing a "materially different process" for making the product.

In any event, as noted in the cited section MPEP § 806.05(a) "the burden is on the examiner to provide reasonable examples that recite material differences." Applicants respectfully submit that the burden placed upon the Examiner has not been carried and the withdrawal of this requirement is believed to be in order.

Accordingly, it is respectfully requested that the requirement to elect a single group be withdrawn, and that a full examination on the merits of Claims 1-10 be conducted.

Respectfully submitted,

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